84-1474

NO. _____

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CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1984

EMMET N. BARTHOLOMEW,

Petitioner

VERSUS

UNITED STATES OF AMERICA,

Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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Attorney for Petitioner,
Emmet N. Bartholomew

QUESTIONS PRESENTED

Is it beyond the range of the legitimate "recommendations regarding the prisoner's parole", contemplated by the quoted language in 18 U.S.C. §4207(4), for a judge to recommend against any parole whatsoever?

May a sentencing judge order that there be no parole and, if not, should such an invalid order be stricken to prevent the realistic possibility that the illegal order will be given illegitimate deference by the Parole Board?

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OPINIONS BELOW

The unpublished opinion of the United States Court of Appeals for the Fifth Circuit, dated January 14, 1985, and affirming the district court's judgment of conviction and sentence, is reprinted in full in Appendix A hereto.

JURISDICTION

The opinion and order appealed from was filed January 14, 1985. This petition is

therefore timely. Jurisdiction is predicated on 28 U.S.C. §1254(1).

STATUTORY PROVISIONS AND REGULATIONS

18 U.S.C. §4207(4):

> In making a determination under this chapter (relating to rules on parole) the commission shall consider, if available and relevant:
>
> * * *
>
> (4) recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge....

28 CFR §2.19 is reprinted in Appendix B.

STATEMENT OF THE CASE

Petitioner Emmet N. Bartholomew and two co-defendants were charged in a two count indictment with violation of 18 U.S.C. §371 (conspiracy) and 18 U.S.C. §2113(a)(e) (kidnap/bank robbery). All three defendants pled guilty as charged. Petitioner received a thirty year sentence on Count II and a concurrent five year sentence on Count I.

At the sentencing hearing, the district court made the following statement:

> It is also noted on the record at this time that this court is obliged to recommend that the sentence shall carry with it a recommendation that there shall be no parole except consistent with the awarding of such good time as the defendant may be entitled to by reason of satisfactory service of this sentence.

The judge made a similar statement when he sentenced the co-defendants. Moreover, in the Report on Sentenced Offender (Form AO 235)(Appendix D), which becomes part of a prisoner's permanent parole file, the district judge recommended to the United States Parole Commission:

> Without reiterating the aggravating circumstances existent here, it is my unswerving and categoric recommendation that parole is totally inappropriate in this case and is, accordingly, recommended against by the undersigned in the strongest possible terms.

The judge, however, in the Judgment and Probation/Commitment Order, Appendix C, went further than he had in his comments at sen-

tencing and in the Report on Sentenced Offender. At the bottom of this form, there is a section entitled "Commitment Recommendation". As filled in by the district court, the section reads, "The court orders commitment to the custody of the Attorney General and recommends, NO PAROLE. This is a categoric and unchangeable Order."

Petitioner appealed to the United States Court of Appeals for the Fifth Circuit requesting that his sentence be vacated and the case remanded to the district court with directions to redact the "order" contained in the Judgment and Probation/Commitment purporting to deny him parole and further, to refrain from making a "categoric" recommendation that the Parole Commission deny him parole altogether. In an opinion dated January 14, 1985, the Fifth Circuit affirmed the district court's decision, writing that notwithstanding the language, "This is a categoric and unchangeable Order", the lower

court merely recommended against parole in its Judgment and Probation/Commitment Order. The Fifth Circuit also held that the legislative history of the Parole Commission and Reorganization Act of 1976 and the provisions of 18 U.S.C. §4207(4) and 28 C.F.R. §2.19 indicate that a district court has the authority to to make a flat recommendation that a prisoner be denied parole altogether.

Petitioner now applies to this Court for a writ of certiorari to review the decision of the United States Court of Appeals for the Fifth Circuit.

REASONS FOR GRANTING THE WRIT

This petition presents an important and substantial question of federal law regarding the construction of the Parole Commission and Reorganization Act of 1976. It involves a question which has not been directly considered by the federal circuit courts in any reported opinion (the opinion below was not

published), although the question is one that must have been raised in countless other cases (probably unpublished as well). Moreover, the Parole Commission, together with parole, expires in five years, and a definitive decision for that period is desirable.

A. It is Beyond the Range of the Legitimate Recommendations Contemplated by 18 U.S.C. §4207(4) for a Judge to Recommend Against any Parole Whatsoever.

Petitioner's statutory eligibility for parole under his thirty year sentence begins at ten years (when he is forty-six years old), 18 U.S.C. §4205(a); he "shall be released after serving two-thirds of" that term (when he is fifty-six years old).[1] 18 U.S.C. §4206(d). In the Report on Sentenced Offender, the district court recommended that petitioner be denied parole alto-

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[1]That is, unless the Parole Commission has determined "that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State, or local crime."

gether, that is, that he serve twenty years (or more[2]) without parole, and that he then be discharged directly from that lengthy term of imprisonment to society without any period of supervised reintegration.

It is petitioner's position that a district court judge may not recommend "no parole" to the Parole Commission. 18 U.S.C. §4207(4) directs the Parole Commission to consider "if available and relevant:...(4) recommendations regarding the prisoner's parole made at the time of sentencing by the sentence judge;...." In terms, the sentencing judge is authorized to make recommendations "regarding...parole". The words "regarding parole" must be construed with reference to the scheme of the Parole Commission and Reorganization Act of 1976 (in which these terms appear for the first time), and to the congressional intent behind the legislation. With due regard to these essential

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[2]See n. 1, supra.

constraints on statutory construction, it is submitted that the term, "regarding" parole, presumes that there will be parole. Thus, the authorized recommendations are as to the judge's intentions for length of incarceration with regard to the published guidelines of the Parole Commission (28 CFR); and the more traditional terms and conditions of a prisoner's serving parole (like continuing drug treatment or the monitoring of urine for drugs, special attention to jobs or people to avoid, etc.)

Historically, parole originated as a form of clemency, either to mitigate unduly harsh sentences or to reward exemplary behavior during incarceration. Today, however, the goals of the parole system are broader and include the practical effect of balancing differences in sentencing policies and practices between judges and courts in the wide and diverse federal criminal justice system. Indeed, the difficulty of smoothing

out the gross disparities in sentences from around the country among similarly situated defendants through the Parole Commission's own efforts has provoked the Congress to eliminate parole in five years, and to set up narrow guidelines for judges themselves. Comprehensive Crime Control Act of 1984, Public Law 98-473.

The Parole Commission is at the bottom line responsible for keeping in prison those who, because of the need for accountability to society or for the protection of society, must be retained in prison. "Of equal importance, however, parole provides a means of releasing those inmates who are ready to be responsible citizens, and whose continued incarceration, in terms of the needs of law enforcement, represents a misapplication of tax dollars." H. Rep. No. 94-838, 1976 U.S. Code, Cong. & Admin. News, 337-338.

The Parole Commission and Reorganization Act of 1976, Public Law 94-233, was enacted

against a backdrop of experiment and change by the Parole Commission, and of litigation over those changes, in what factors to consider in the grant or denial of parole, and in what guidelines to utilize in issuing parole to similarly situated defendants. See, United States v. Addonizio, 442 U.S. 178, 182, n. 4 (1979).[3] Judges often have very definite ideas as to how much time a prisoner should be incarcerated under their sentences. The litigation throughout the federal system, primarily before Addonizio, centered on what, if any, power district judges had to implement their expectations

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[3]The Supreme Court in Addonizio noted that: "In 1973, the Parole Commission markedly changed its policies. Under its new practices the gravity of the offense became a significant factor in determining whether a prisoner should be granted parole." Id. at 2238. "The Commission commenced using guidelines on a trial basis in 1973 and started to apply them throughout the Nation in November 1973....The Commission's present guidelines are codified at 28 CFR §2.20 (1978). The use of guidelines is now required by statute. See 18 U.S.C. §§4203(a)(1) and 4206(a)." Id. at 2238, n. 4.

for parole of a particular defendant, in the face of contrary action by the Parole Commission beyond and more repressive than the judges' expectation. Most exhaustively litigated was the Parole Commission's obligation to give due regard to a sentencing judge's intentions for early release under the predecessor of 18 U.S.C. §4205(b)(2);[4] that is, whether the Parole Commission must meaningfully consider eligibility in advance of the standard one-third parole eligibility date provided for in the first part of the statute, when the judge imposed a (b)(2) sentence. See, e.g., Garafola v. Benson, 505 F.2d 1212 (7th Cir. 1978); Grasso v. Norton, 520 F.2d 27 (2nd Cir. 1975). The Parole Commission had routinely ignored (b)(2) sentences and the sentencing judges' intentions for early release or meaningful parole consideration thereunder.

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[4]Former 18 U.S.C. §4208(b)(2).

It was against this background that Congress for the first time specifically directed that "recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge" mandatorily be considered by the Parole Commission in determining when to release a defendant on parole. The intention behind the legislation was ameliorative to defendants. It was designed primarily to implement the more lenient parole intentions reflected by a judge's decision to utilize Section (b) of the parole statute, in the face of historical disregard of those intentions by the Parole Commission. There is nothing in the jurisprudential or statutory history of the law to suggest that Congress intended the judge's sentencing recommendation to be directed at a denial of parole altogether. To accord such a meaning to the words "recommendations regarding... parole" is to turn this legislative history on its head.

As the Addonizio facts make clear, there was also substantial litigation over the Parole Commission's experimentation with parole guidelines. The Commission had instituted guidelines to make more uniform the actual periods of incarceration under grossly disparate sentences of similarly circumstanced defendants issuing from judges across the United States. Sentencing judges' expectations had often been frustrated by the application of the guidelines to exceed intended periods of incarceration. The Parole Commission and Reorganization Act of 1976 gave statutory approval to, and indeed required, that the experiment be retained. See 18 U.S.C. §§4203(a)(1) and 4206(a).

> The standards for release on parole and for revocation of parole are not significantly changed from existing law. The only notable change is that the standards and criteria are made the same for all federal prisoners without regard to which of the three main sentencing alternatives is utilized by the court. This will be of significant benefit to the federal correctional

> institutions because offenders sentenced for similar crimes under similar circumstances will be required to serve comparable periods of incarceration.
>
> S. Rep. No. 94-369, 1976 U.S. Code, Cong. & Admin. News, 335, 339-340.

Judicial recommendations "regarding... parole" are to be considered in applying the Parole Commission guidelines; nowhere is it suggested that a judge can recommend "no parole" to avoid guidelines. Indeed, the very concept of uniformity embodied in the parole guidelines is diametrically opposed to the idea of implementing the personal sentencing philosophy of a particular judge in a particular district, which might be out of line with judges and sentences in other district, in total disregard of principles of uniformity. To condone a sentencing recommendation to deny all parole consideration is to flout the congressional judgment that the Parole Commission exercise an informed discretion despite a particular sentencing judge's

personal predeliction as exemplified in his sentence. 18 U.S.C. §4207(4) was not intended to take back the mandatory utilization of Parole Commission guidelines, and the desired uniformity therefrom, by authorizing recommendations which would undo uniformity, and which would destroy the very function of the guideline principle.

In sum, the statutory scheme and the legislative history all indicate that a judge's "recommendations regarding...parole" have to do with early release under the guidelines and for specific conditions of parole. That the Parole Commission will consider parole is assumed. And, although a judge may outline aggravating factors which may somewhat delay parole, the authorized recommendations by the sentencing judge do not include a recommendation not to consider parole at all.

B. A Sentencing Judge May Not "Order" that There be no Parole, and such an Invalid Order must be Stricken to Prevent the Realistic Possibility that the Illegal Order will be Given Illegitimate Deference.

Even assuming for the moment that 18 U.S.C. §4207(4) permits a judicial recommendation that there be no parole whatsoever for a defendant, it is clear beyond argument that a district judge has no power to order that there be no parole. 18 U.S.C. §4205 makes the decision to parole or not to parole one exclusively for the United States Parole Commission; "[t]he trial judge is precluded from effectively usurping that function...." United States v. Addonizio, 442 U.S. 178, 189, n. 15 (1979). The trial judge may not prevent parole after service of one-third of any sentence; every defendant for whom parole is not prohibited explicitly by the statute defining the penalty for the crime is automatically eligible at that point at

least.[5] 18 U.S.C. §4205(a). The trial judge's authority to affect parole eligibility may be exercised only in favor of the defendant, i.e., downwards from the one-third provided for in Section (a) of the statute. Under Section (b) of the statute, the judge may favor the defendant with parole eligibility at any point less than one-third of the sentence (apparently all the way down to the first day of its service), or alternatively, make the defendant eligible for parole in the discretion of the Parole Board from the moment the defendant begins to serve his sentence. But the judge may not increase beyond one-third the percentage of the sentence a defendant must serve before becoming eligible for parole.

Under the statutory scheme, then, the trial judge's purported order to limit the

---

[5]For sentences of more than thirty years and of life, parole eligibility begins at ten years under this statute. 18 U.S.C. §4205(a).

Parole Board's enlarging of petitioner on parole:

> NO PAROLE. This is a categoric and unchangeable Order.

is contrary to the statutory authority vested in the judge, and is unlawful. As this Court stated (there, against the defendant) in United States v. Addonizio, 442 U.S. 178 (1979):

> A decision as to when a lawfully sentenced defendant shall actually be released has been committed by Congress...to the discretion of the Parole Commission....The authority of sentencing judges to select precise release dates is, by contrast, narrowly limited: the judge may select an early parole eligibility date, but that guarantees only that the defendant will be considered at that time by the Parole Commission....
>
> The import of this statutory scheme is clear: the judge has no enforcible expectations with respect to the actual release of a sentenced defendant....The judge may well have expectations as to when release is likely. But the actual decision is not his to make, either at the time of sentencing or later if his expectations are not met. To require the Parole Commission to act in accordance with judicial

> expectations...would substantially undermine the congressional decision to entrust release determinations to the Commission and not the courts.

442 U.S. at 188-190.

It has been recognized in the jurisprudence that a purported order, like that of the district court herein, has no binding force, and should be disregarded by the Parole Commission on its own.

> Even had the judge intended the Commission to be bound by his recommendation, "sentencing judges do not have the authority 'to supervise, control, or second-guess the Parole Board.'"... Because a court's attempted control of the Parole Commission's discretion would therefore be futile, its directive would be without legal significance.
>
> United States v. Mooney, 654 F.2d 482, 489 (7th Cir. 1981).

However, the very use of the word "order" is likely to have a continuingly powerful and negative impact on petitioner's chances for parole under his thirty year sentence. Petitioner -- age thirty-six at

the time of the offense, a first offender with a college degree, who waded into water over his head and was carried out to sea by an undertow he did not anticipate -- is an attractive candidate for serious parole consideration at the earliest date for eligibility. But the invalid order will follow petitioner into each and every parole hearing. It will be read at the prison hearings of first instance by hearing officers who are not lawyers and who are not versed in law. Judicial "orders" from a federal district court, valid or invalid, are never lightly to be disregarded; nor should they be. And who is to say that a non-lawyer hearing officer will not give binding force to the invalid "order" from the district judge.

The Fifth Circuit did not reach the issue of whether or not a judge may order that parole be denied outright; instead, it merely held that from its reading of the Judgment and Probation/Commitment Order and the

Report on Sentenced Offender the district judge "well understood that it was a recommendation only that he was making, and not an order." While this may well be an accurate assessment of the district judge's intentions or perceptions, it is not his understanding which is at issue. Rather, it is how the parole hearing panel is likely to interpret his words, which on the commitment order are unequivocal:

> NO PAROLE. This is a categoric and unchangeable Order.

It is difficult to see how these words can be characterized as anything other than what they purport to be -- an order.

The order is invalid. It has no place in petitioner's permanent Bureau of Prisons file. It has no legitimacy and can only hurt the petitioner in an impermissible manner. The order should have been stricken.

CONCLUSION

Petitioner respectfully asks, for the reasons cited herein, that this Court grant his Petition for Writ of Certiorari to review the decision of the United States Court of Appeals for the Fifth Circuit Court.

Respectfully submitted,

ROBERT GLASS
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338 Lafayette Street
New Orleans, LA 70130
Tel.: 504/581-9065

Attorney for Petitioner,
Emmet N. Bartholomew

CERTIFICATE OF SERVICE

I, Robert Glass, a member of the bar of this Court, hereby certify that copies of this petition for certiorari have been served on the respondent United States of America by mailing three copies thereof, postage prepaid, to the Solicitor General, Department of Justice, Washington, DC 20530, and three copies to John Volz, Esq., U.S. Attorney, 500 Camp Street, New Orleans, LA 70130, this ____ day of March, 1985.

_____
ROBERT GLASS

APPENDIX A

UNITED STATES OF AMERICA,
Plaintiff-Appellee

versus

EMMET N. BARTHOLOMEW,
Defendant-Appellant

No. 84-3464

United States Court of Appeals,
Fifth Circuit

January 14, 1985

Before WISDOM, REAVLEY and RANDALL, Circuit Judges.

PER CURIAM:*[6]

Perhaps out of an abundance of caution, Emmet N. Bartholomew appeals the portion of the Judgement and Probation-Commitment Order entered in his case by the Honorable Peter

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[6]*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

Beer on June 20, 1984, labelled "Commitment Recommendation" and reading as follows:

> The court orders commitment to the custody of the Attorney General and recommends, NO PAROLE. This is a categoric and unchangeable Order.

In the Report on Sentenced Offender, Form AO235 Rev. 7/82, Judge Beer provided his parole recommendation to the U.S. Parole Commission under the section of the form requesting:

> Comments and Recommendation Relative to Parole: (Give comments regarding the appropriateness of parole in view of the present offense, prior criminal background, and any mitigating or aggravating circumstances.)

Judge Beer's recommendation was as follows:

> Without reiterating the aggravating circumstances existent here, it is my unswerving and categoric recommendation that parole is totally inappropriate in this case and is, accordingly, recommended against by the undersigned in the strongest possible terms.

Bartholomew argues that the "Commitment Recommendation" is really not a

recommendation but an order. We disagree. It is only a recommendation. A reading of the Judgment and Probation-Commitment Order and the Report on Sentenced Offender makes clear that Judge Beer well understood that it was a recommendation only that he was making, and not an order.

Bartholomew's second point on appeal is that, in his view, a district court does not have the authority to recommend against a defendant's parole. We agree with the United States that the legislative history of the Parole Commission and Reorganization Act of 1976 and the provisions of 18 U.S.C. §4207(4) and 28 CFR §2.19 compel the conclusion that a district court has the authority to recommend against a defendant's parole.

AFFIRMED.

APPENDIX B

28 CFR §2.19:

§2.19 INFORMATION CONSIDERED.

(a) In making a determination under this chapter (relating to release on parole) the Commission shall consider, if available and relevant:

(1) reports and recommendations which the staff of the facility in which such prisoner is confined may make;

(2) official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

(3) presentence investigation reports;

(4) recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge and prosecuting attorney; and

(5) reports of physical, mental, or psychiatric examination of the offender.

(b) There shall also be taken into consideration such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may

be reasonably available (18 U.S.C. 4207). The Commission encourages the submission of relevant information concerning an eligible prisoner by interested persons.

(c) The Commission may take into account any substantial information available to it in establishing the prisoner's offense severity rating, salient factor score, and any aggravating or mitigating circumstances, provided the prisoner is apprised of the information and afforded an opportunity to respond. If the prisoner disputes the accuracy of the information presented, the Commission shall resolve such dispute by the preponderance of the evidence standard; that is, the Commission shall rely upon such information only to the extent that it represents the explanation of the facts that best accords with reason and probability. However, the Commission shall not consider in any determination, charges upon which a prisoner was found not guilty after trial unless reliable information is presented that was not introduced into evidence at such trial (e.g., a subsequent admission or other clear indication of guilt).

(d) Recommendations and information from sentencing judges, defense attorneys, prosecutors, and other interested parties are welcomed by the Commission. In evaluating a recommendation concerning parole, the Commission must consider the degree to which such recommendation

provides the commission with specific facts and reasoning relevant to the statutory criteria for parole (18 U.S.C. 4206) and the application of the Commission's guidelines (including reasons for departure therefrom). Thus, to be must helpful, a recommendation should state its underlying factual basis and reasoning. However, no recommendation (including a prosecutorial recommendation pursuant to a plea agreement) may be considered as binding upon the Commission's discretionary authority to grant or deny parole.

BEST

United States of America vs

DEFENDANT: EMMET N. BARTHOLOMEW

United States District Court for

EASTERN DIS. .CT OF LOUISIANA

DOCKET No. CRIMINAL 84-95

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date: June 20 1984

[ ] WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desires to have counsel appointed by the court and the defendant thereupon waived assistance of counsel

[XX] WITH COUNSEL Robert Glass, Esq.
(Name of counsel)

PLEA

[XX] GUILTY, and the court being satisfied that there is a factual basis for the plea. [ ] NOLO CONTENDERE. [ ] NOT GUILTY to Counts 1 and 2 on April 30, 1984.

FINDING & JUDGMENT

There being a finding/verdict of [ ] NOT GUILTY. Defendant is discharged
[XX] GUILTY on April 30, 1984 to Counts 1 and 2.

Defendant has been convicted as charged of the offense(s) of CONSPIRACY TO COMMIT BANK ROBBERY AND INCIDENTAL CRIMES AND COMMISSION OF BANK ROBBERY AND INCIDENTAL CRIMES; in violation of: Title 18, United States Code, Sections 371, 2113(a)(e) and 2, AS CHARGED IN THE 2 COUNT INDICTMENT.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 5 years as to Count 1: As to Count 2: sentenced to imprisonment for a period of 30 years. The sentence imposed on Count 2 is to run concurrent with the sentence imposed on Count 1.

IT IS FURTHER ORDERED that as to Count 2: The defendant is to make restitution to the victims in the sum of $8,000.00.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends NO PAROLE. This is a categoric and unchangeable Order.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY
[ ] U.S. District Judge
[ ] U.S. Magistrate

Peter Beer

DATE OF ENTRY JUN 20 1984

Date June 20, 1984

DOCUMENT NO. 49

AVAILABLE COPY

AO 235
Rev. 7/81

REPORT ON SENTENCED OFFENDER

United States District Court	DISTRICT: Eastern/Louisiana

TO BE COMPLETED BY THE PROBATION OFFICER

NAME OF OFFENDER	FBI NO.	DATE OF BIRTH
Emmet N. Bartholomew	Unknown	1/3/48
OFFENSE: Conspiracy to Commit Bank Robberry, ETC.	SENTENCE:	

TO BE COMPLETED BY THE SENTENCING JUDGE OR MAGISTRATE

Sentencing Objectives: *(Court's intent or purpose for sentence imposed.)*

Comments on Treatment Needs: *(What treatment or training should the Probation Office or Bureau of Prisons provide?) (e.g., vocational, educational, medical, alcoholic, narcotic.)*

Recommended Institution: *(Type of institution by classification or by name)*

Conclusions and Recommendation Relative to Parole: *(Give comments regarding the appropriateness of parole in view of the present offense, prior criminal background, and any mitigating or aggravating circumstances.)*

Without reiterating the aggravating circumstances existent here, it is my unswerving and categoric recommendation that parole is totally inappropriate in this case and is, accordingly, recommended against by the undersigned in the strongest possible terms.

NO COMMENT ☐

This form will be disclosed to the offender and the Parole Commission in connection with parole consideration, unless the court directs otherwise. (See 18 U.S.C. 4208)

ORIGINAL:	U.S. Probation Office Sentencing Judge	SIGNATURE: Peter Beer	
COPIES:	2 copies to Bureau of Prisons/ Institution designated for confinement	NAME (TYPED): /s/ Peter Beer	DATE: 6/20/84

BEST AVAILABLE COPY